

REMARKS

Responsive to the Office Action mailed June 20, 2007, on the above-referenced patent application, Applicants respectfully request reconsideration of the application. No amendments have been made. Claims 1, 5, 7, 8, 10-15, 17, 21-26 are pending.

The Office Action

The Examiner rejected claims 1, 5, 7, 8, 10-15, 17 and 20-26 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,961,559 to Chow et al. (Chow). However, regarding independent claim 1, Chow does not disclose "the wireless communications network delivering a "call waiting no answer" message to the calling party terminal notifying the calling party that the called party has call waiting" as claimed. The "call waiting no answer" message, defined in paragraph [0027] of Applicant's Specification, tells the calling party that the called party has call waiting, is currently already on the line, and is not answering the calling party's call.

Chow discloses a Call Waiting feature described in column 66, line 43 to column 69, line 9. The Call Waiting feature includes the LDS (switch) 104 sending a ring back tone (3518) to the PSTN calling party, as described in column 67, lines 44-49. The ring back tone in Chow is a conventional ring back tone which notifies the calling party that the called party (MS 101A) is being alerted to the incoming call. Chow does not distinguish the ring back tone (3518) from other ring back tones sent to the calling party during other call situations besides Call Waiting, such as when the called party is not on already on the line. It does not convey the message that the called party has call waiting. It also does not convey the message that the called party is already on the line.

Furthermore, Chow does not disclose delivering the "call waiting no answer" message to the calling party terminal after the call pickup timer expires. The call pickup timer is a timer which gives the called party an opportunity to answer the calling party's call when the called party has call waiting. Expiration of the call pickup timer indicates that the called party has chosen not to answer the calling party's call. The "call waiting no answer" message is delivered to the calling party after called party has made this decision. The ring back tone used in Chow is sent in the conventional manner while the called party terminal is being alerted to the incoming call and not after called party has

been given the opportunity to answer but has declined to do so.

Finally, Chow does not disclose the invention as a whole, as claimed in claim 1. Chow discloses a Call Waiting feature in which the calling party's incoming call to the called party is released, if the called party does not answer the incoming call, as disclosed in column 68, lines 63-67. Chow also discloses other scenarios in which the called party answers the incoming call, (see column 67, line 50 - column, 68, line 30), but these are not relevant.

For these reasons, claim 1 and claims 5, 7, 8, 10-15, 21-22 depending therefrom are patentable over Chow.

Independent claim 17 is patentable over Chow for similar reasons, and thus claims 23-26, depending therefrom, are also patentable.

CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1, 5, 7, 8, 10-15, 17, 21-26) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone Patrick D. Floyd, at (216) 861-5582.

Respectfully submitted,

FAY SHARPE LLP

September 20, 2007

Date

Patrick D. Floyd
Patrick D. Floyd
Reg. No. 39,671
1100 Superior Avenue
Seventh Floor
Cleveland, Ohio 44114-2579
216-861-5582

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this paper and/or fee is being transmitted to the USPTO by electronic transmission via EFS-Web on the date indicated below.

Roseanne Giuliani
Roseanne Giuliani

Date: September 20, 2007